

November 8, 2005 (4:16pm)

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF**BEFORE THE COMMISSION**

In the Matter of

USEC Inc.  
(American Centrifuge Plant)) Filed November 8, 2005  
)  
)  
) Docket No. 70-7004  
)  
)  
)**GEOFFREY SEA'S MOTION FOR LEAVE TO ANSWER THE BRIEFS OF  
USEC AND NRC STAFF ON PETITIONER'S APPEAL OF LBP-05-28**

Petitioner Geoffrey Sea hereby replies to USEC Inc. Brief In Response to Brief of Geoffrey Sea on Appeal of LBP-05-28 (November 2, 2005) (hereinafter "USEC Brief"), and NRC Staff's Brief in Opposition to Geoffrey Sea Appeal of LBP-05-28 (November 3, 2005) (hereinafter "Staff Brief"). Although NRC regulations for the briefing of appeals do not specifically provide for reply briefs, neither do they forbid reply briefs. (10 C.F.R. § 2.311.) Here, the granting of leave to file a reply is warranted because in their response briefs, both USEC and NRC Staff raise certain new issues, introduce new facts, and commit errors of fact and law. If unanswered by the Petitioner, these items would mislead the Commission on certain key issues.

For example, both USEC and NRC Staff make copious reference to the Draft Environmental Impact Statement (DEIS), and to the ongoing process of Section 106 consultation under the National Historic Preservation Act (NHPA). Since neither of these were at issue before the ASLB issued its ruling, LBP-05-28, and since Petitioner was limited to the pre-existing record in preparing his appeal, Petitioner was not able to comment on these specific references in his appeal brief.

TEMPLATE = SECY-037

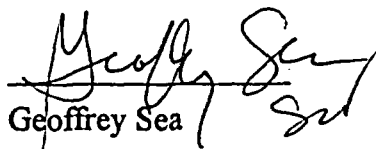
SECY-02

Petitioners also seeks an opportunity to discuss the fact that USEC and the NRC Staff misconstrue the law governing preparation of EIS's and the appropriate placement of the burden of proof in NEPA and NHPA cases. In addition, they make inconsistent statements which undermine each other's arguments.

USEC has also made a number of misleading errors in its response brief. For example, on page 4, USEC takes issue with the Petitioner's claim of being in the direction of maximum windborne contamination, for the first time in these proceedings. USEC suggests that the Barnes Home property would not receive the maximum windborne contamination from ACP, when in fact it would, according to USEC's own analysis in its ER. On page 17, USEC engages in a completely erroneous characterization of the eligibility status of the Barnes Home for the National Register of Historic Places. On page 19, USEC suggests that the Petitioner has been a consulting party for the NHPA Section 106 process all along, when in fact the Petitioner was excluded from that status for more than eight months, from January to September of 2005. On page 23, USEC makes the new and quite bizarre argument that even its lease agreement for ACP facilities should be ruled "beyond scope" of the proceeding.

In order to ensure that the Commission has a complete and meaningful record on which to make its decision regarding Petitioner's appeal, it is imperative that the Petitioner have the opportunity to answer, correct and clarify these issues for the Commission and for the public record. Petitioner therefore asks leave to submit the attached reply brief.

Respectfully submitted,

  
Geoffrey Sea

October 24, 2005

Geoffrey Sea  
The Barnes Home  
1832 Wakefield Mound Road  
Piketon, OH 45661

Tel: 740-289-2473 Cell: 740-835-1508 E-Mail: [SargentsPigeon@aol.com](mailto:SargentsPigeon@aol.com)